

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  COX IOWA TELECOM,  Complainant,  vs.  QWEST CORPORATION,  Respondent.	DOCKET NO. FCU-02-1
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**ORDER DOCKETING COMPLAINT, ESTABLISHING PROCEDURAL SCHEDULE,  
AND GRANTING MOTION TO STAY**

(Issued February 6, 2002)

On January 3, 2002, Cox Iowa Telecom (Cox Iowa) filed a complaint against Qwest Corporation (Qwest), identified as Docket No. FCU-02-1. Cox Iowa's complaint was filed pursuant to Iowa Code §§ 476.3(1) and 476.101(8) (2001), and 199 IAC ch. 6 (2001). Cox Iowa alleges that Qwest's decision to offer local service freeze (LSF) to its Iowa customers is an anti-competitive measure.

On January 22, 2002, Cox Iowa filed with the Utilities Board (Board), a motion to show cause and a request for a stay of Qwest's LSF offerings, which became available to Qwest's Iowa customers on January 17, 2002.

Qwest filed an answer to the complaint on January 23, 2002, stating that its implementation of LSFs to its Iowa customers fully complies with the preferred carrier

freeze rules promulgated by the FCC and adopted by the Board and is not an anti-competitive measure.

Iowa Code § 476.101(8) provides, in relevant part, that when the Board initiates formal complaint proceedings in response to a written complaint regarding a local exchange carrier's compliance with sections 476.96 through 476.102, "[t]he board shall render a decision in the proceeding within 90 days after the date the written complaint was filed." Thus, the deadline for Board action in this docket is April 4, 2002, and the Board is docketing this matter and establishing a procedural schedule that will satisfy that requirement.

The Board also finds that the limited time available for this proceeding means that the 14-day period for responding to motions, set forth in 199 IAC 7.7(11), and the seven day period for responding to data requests, See 199 IAC 7.7(2), are impractical in this proceeding. The Board will order that responses or objections to all motions and data requests must be filed or provided within five days of the date the motion is filed or the data request is served. In order to accommodate that abbreviated time frame, parties are directed to serve all motions and data requests by facsimile transfer or electronic mail, as well as by United States mail, on or before the date of filing.

In its complaint, Cox Iowa also requested Qwest file a tariff with the Board reflecting the LSF service option. The Board recognizes that it is Qwest's intention to provide the proposed LSF without cost to the customer. However, it is a service offering available to Iowa customers. The terms and conditions of the offering must

be included in Qwest's tariff before the service is made available to customers.

Therefore, the Board will direct Qwest to amend its tariff to include the LSF service option.

The Board will grant Cox Iowa's motion to stay Qwest's implementation of its LSF service during the pendency of this proceeding. This will to allow time for Qwest to submit an amended tariff reflecting this additional service and for consideration of the issues raised in this docket.

**IT IS THEREFORE ORDERED:**

1. The complaint filed on January 3, 2002, by Cox Iowa Telecom, L.L.C., against Qwest Corporation is docketed for investigation as Docket No. FCU-02-1.
2. The following procedural schedule is established for this proceeding:
  - a. Cox Iowa and any intervenors shall file prepared direct testimony, with supporting exhibits and workpapers on or before February 15, 2002.
  - b. Qwest shall file rebuttal testimony, with supporting exhibits and workpapers, on or before February 25, 2002.
  - c. A hearing for the purpose of receiving testimony and cross-examination of all testimony will commence at 10 a.m. on Monday, March 4, 2002, in the Board's hearing room at 350 East Maple Street, Des Moines, Iowa. Parties shall appear at the hearing one-half hour prior to the time of hearing to mark exhibits. Persons with disabilities requiring assistive services

or devices to observe or participate should contact the Board at 515-281-5256 to request appropriate arrangements.

d. Any party desiring to file a brief may do so on or before March 11, 2002.

3. In the absence of objection, all workpapers shall become a part of the evidentiary record at the time the related testimony and exhibits are entered in the record.

4. In the absence of objection, all data requests and responses referred to in oral testimony or cross-examination, which have not previously been filed with the Board, shall become a part of the evidentiary record. The party making reference to the data request or response shall file an original and six copies at the earliest possible time.

5. In the absence of objection, if the Board calls for further evidence on any issue and that evidence is filed after the close of hearing, the evidentiary record shall be reopened and the evidence will become a part of the evidentiary record five days after filing. All evidence filed pursuant to this paragraph shall be filed no later than seven days after the close of hearing.

6. Pursuant to 199 IAC 7.7(2) and (11), the time for filing responses or objections to data requests and motions will be shortened to five days from the date the motion is filed or the data request is served. All data requests and motions should be served by facsimile transfer or by electronic mail, in addition to United States mail.

7. The motion to stay the implementation of Qwest's local service freeze, which became available to Iowa customers on January 17, 2002, filed by Cox Iowa Telecom, L.L.C., on January 3, 2002, is granted.

8. Qwest Corporation shall file a proposed tariff with the Board reflecting the addition of the local service freeze option on or before February 11, 2002. A copy shall be served upon all parties to this proceeding by facsimile transfer or electronic mail on the date of filing.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

Dated at Des Moines, Iowa, this 6<sup>th</sup> day of February, 2002.